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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Ovi 1

Yokohama, Japan
12 July 1948

UNITED STATES OF AMERICA VS MINORU FUJIMOTO
UNITED STATES OF AMERICA VS MASATOMO KIKUCHI
UNITED STATES OF AMERICA VS SABURO KOZAWA
UNITED STATES OF AMERICA VS SYOKEI MATSUO
UNITED STATES OF AMERICA VS TOSHIO MIZUNO
UNITED STATES OF AMERICA VS RYOICHI NEMOTO

Review of the Staff Judge Advocate

1. The attached record of trial by common trial of Minoru Fujimoto, Masatomo Kikuchi, Saburo Kozawa, Syokei Matsuo, Toshio Mizuno and Ryoichi Nemoto, at Yokohama, Japan from 3 March 1947 to 16 April 1947, by a Military Commission appointed by paragraph 10, Special Orders No. 45, Headquarters Eighth Army, United States Army, dated 24 February 1947, having been referred to the Staff Judge Advocate, this review is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Minoru Fujimoto
AGE: Not shown
RESIDENCE: Not shown
MARITAL STATUS: Not shown
RELATIVES: Not shown
EDUCATION: Not shown
VOCATION: Not shown
MILITARY CAREER: Not shown

DATE OF CONFINEMENT: 5 Feb 1946
DATE OF ARRAIGNMENT: 3 Mar 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 3 Mar 1947 to 16 April 1947
DATE OF SENTENCE: 16 April 1947
SENTENCE: CHL for fifteen (15) yrs
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Masatomo Kikuchi
AGE: Not shown
RESIDENCE: Not shown
MARITAL STATUS: Not shown
RELATIVES: Not shown
EDUCATION: Not shown
VOCATION: Not shown
MILITARY CAREER: Not shown

DATE OF CONFINEMENT: 22 Dec 1945
DATE OF ARRAIGNMENT: 3 Mar 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 3 Mar 1947 to 16 April 1947
DATE OF SENTENCE: 16 April 1947
SENTENCE: CHL for twelve (12) yrs
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Saburo Kozawa
AGE: Not shown
RESIDENCE: Not shown
MARITAL STATUS: Not shown
RELATIVES: Not shown
EDUCATION: Not shown
VOCATION: Not shown
MILITARY CAREER: Not shown

DATE OF CONFINEMENT: 11 Dec 1945
DATE OF ARRAIGNMENT: 3 Mar 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 3 Mar 1947 to 16 April 1947
DATE OF SENTENCE: 16 April 1947
SENTENCE: CHL for twenty-three (23) yrs
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Toshio Mizuno
AGE: 36
RESIDENCE: 1451 Aza Yanakawa, Tachibana-mura, Higashi-Ibaraki-gun, Ibaraki Prefecture

DATE OF CONFINEMENT: 29 Jan 1946
DATE OF ARRAIGNMENT: 3 Mar 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 3 Mar 1947 to 16 April 1947

(D 1, FUJIMOTO et al, Case #166)

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PURL: https://www.legal-tools.org/doc/3aa4e6/

MARITAL STATUS: Married
RELATIVES: Wife, two children
EDUCATION: Graduated higher primary school
VOCATION: Farming
MILITARY CAREER: Entered Japanese Army 16 June 1933; entered and left the Army several times; as Corporal assigned to Hitachi Dispatch Camp No. 127 from 5 Mar 1944 to 10 June 1945

DATE OF SENTENCE: 16 April 1947
SENTENCE: CHL for seventeen (17) yrs
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Syokei Matsuo
AGE: 46
RESIDENCE: 56 Oi Samezu-machi, Shinagawa-ku, City of Tokyo
MARITAL STATUS: Married
RELATIVES: Not shown
EDUCATION: Graduated Commercial College, Waseda University
VOCATION: Chief of labor section for company making anti-aircraft guns
MILITARY CAREER: First entered Japanese Army 1 February 1928, entering and leaving the Army several times; commissioned in 1932.

DATE OF CONFINEMENT: 27 Apr 1946
DATE OF ARRAIGNMENT: 3 Mar 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 3 Mar 1947 to 16 April 1947
DATE OF SENTENCE: 16 April 1947
SENTENCE: CHL for seventeen (17) yrs
CLEMENCY RECOMMENDED BY COMMISSION: No

NAME: Ryoichi Nemoto
AGE: 39
RESIDENCE: 16 Minamura, Higatake Harano-machi, City of Sendai, Miyagi Prefecture
MARITAL STATUS: Widower
RELATIVES: Not shown
EDUCATION: Graduated, Hosei Univ.
VOCATION: In business and teaching
MILITARY CAREER: First entered Army 1 February 1933, saw foreign service; began POW Camp duty 9 Mar 1943

DATE OF CONFINEMENT: 24 Jun 1946
DATE OF ARRAIGNMENT: 3 Mar 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 3 Mar 1947 to 16 April 1947
DATE OF SENTENCE: 16 April 1947
SENTENCE: CHL for three (3) yrs
CLEMENCY RECOMMENDED BY COMMISSION: No

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2. Synopsis of Charges, Specifications, Pleas, Findings, Legal Sufficiency and Sentence:

Charge and Specifications:	Pleas	Findings	Legally Sustained
FUJIMOTO			
Ch: Accused at the times and places set forth in the specifications and during a time of war between the United States and Japan, did violate the Laws and Customs of War (as amended, R. 7).	NG	G	Yes
Sp 1: In or about March 1945, at Tokyo Area POW Branch Camp No. 8, also known as Tokyo Area POW Dispatch ~~Camp~~ No. 12, Hitachi, Honshu,	NG	G	Yes

(p 2, FUJIMOTO et al, Case 166)

PURL: https://www.legal-tools.org/doc/3aa4e6/

Japan, accused, with others, did willfully and unlawfully mistreat Warrant Officer Joseph Reardon, an American PW, by beating him into unconsciousness and then over a long period of time alternately reviving and beating him into unconsciousness again, and by otherwise abusing him.			
Sp 2: In or about July 1945, at Tokyo Area POW Branch Camp No. 8, accused, with others, did willfully and unlawfully mistreat Jean Cuiraud, an American PW, by beating him into unconsciousness and then over a long period of time alternately reviving and beating him into unconsciousness again, and by otherwise abusing him.	TG	G	Yes
Sp 3: On or about 10 February 1945, at Tokyo Area POW Branch Camp No. 8, accused, with others, did willfully and unlawfully mistreat William C. Gonyo, an American PW, by striking him in the face with a rifle butt and by otherwise abusing him.	NG	NG	---
Sp 4: In or about June 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat William W. Nies, an American PW, by beating and otherwise abusing him.	NG	NG	---
Sp 5: On or about 23 June 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Ralph Sedillo, an American PW, by beating him with his fists and the buckle end of a belt and by otherwise abusing him.	NG	G	Yes
Sp 6: On or about 23 June 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat one Warrant Officer Perry, an American PW, and other Allied PWs, by thrusting a lighted carbide lamp in their faces and thereby burning them.	NG	NG	---
Sp 7: In or about June 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Donald H. Kedzie, an American PW, by hitting him with a club and by otherwise abusing him.	NG	G	Yes
Sp 8: In or about November 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Donald H. Kedzie, an American PW, by hitting him with a club and by otherwise abusing him.	NG	G	Yes

(P 5, FUJIMOTO et al, Case #166)

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Sp 9: In or about July 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Ralph F. Gerofalo, an American PW, by beating and otherwise abusing him.	NG	G, excepting the words "and otherwise abusing"; of the excepted words, NG	Yes
Sp 10: In or about June 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Mack C. Walker, an American PW, by beating him with a club, by then forcing him to carry a heavy log up a mountain and by otherwise abusing him.	NG	NG	---
Sp 11: On or about 17 June 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat George Kalil, Jr., an American PW, by beating and otherwise abusing him.	NG	NG	---
Sp 12: Between 11 April 1944 and 5 September 1945 at Tokyo Area POW Branch Camp No. 8, accused did willfully mistreat, torture, beat and otherwise abuse numerous American and Allied PWs.	NG	G, excepting the word "torture"; of the excepted word, NG. And adding the words "other than mentioned in Specifications 1 to 11 inclusive"; of the added words, G.	Yes
<u>KIKUCHI</u>			
Ch: Accused, at the times and places set forth in the specifications and during a time of war between the United States and Japan, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: In or about April 1945, at Tokyo Area POW Branch Camp No. 8, accused with others did willfully and unlawfully mistreat Warrant Officer Joseph Reardon, an American PW, by beating him into unconsciousness several times, by causing him to stand at attention for several hours while holding a bucket of water in each hand, and by otherwise abusing him.	NG	G	Yes
Sp 2: On or about 28 June 1945, at Tokyo Area POW Branch Camp No. 8, accused with others did willfully and unlawfully mistreat Jean A. Guiraud, an American PW, by beating him into unconsciousness and then over a long period of time alternately reviving and beating him into unconsciousness again and by otherwise abusing him.	NG	G	Yes

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Sp 3: In or about April 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Major James H. Bahrenburg, an American PW, by beating and otherwise abusing him.	NG	G	Yes, in part
Sp 4: On or about 12 April 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Charles W. Combs, an American PW, by beating and otherwise abusing him (as amended, R. 7).	NG	NG	---
Sp 5: On or about 15 December 1944, 20 March 1945 and 18 July 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Vaandrig Gerverdinck, a Dutch PW, by beating and otherwise abusing him.	NG	G, excepting the words "and otherwise abusing"; of the excepted words, NG	Yes, in part
Sp 6: At divers times between 11 April 1944 and 31 August 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat and abuse numerous American and Allied PWs by compelling them to practice saluting and other forms of arduous military exercises on their rest days and at other times when they were tired and exhausted and physically unfit to do so.	NG	G	No
Sp 7: Between 11 April 1944 and 31 August 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat, torture, beat, and otherwise abuse numerous American and Allied PWs.	NG	G, excepting the word "torture" and the words "and otherwise abuse"; of the excepted words, NG. And adding "and" before "beat" and adding "other than mentioned in Specifications 1 to 6"; of the added words, G.	Yes, in part
KOZAWA			
Ch: Accused, at the times and places set forth in the specifications and during a time of war between the United States and Japan, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: Between about 28 September 1944 and 31 August 1945 at Tokyo Area POW Branch Camp No. 8, accused with others did willfully and unlawfully mistreat and torture Allied PWs by compelling them to perform excessive and arduous labor, in many cases when they were ill, diseased, and physically unfit to perform such labor, and by otherwise mistreating and abusing them, thereby causing the deaths of Thomas J. Hagenaar, Hugo Edwards van Muyen, Theodor A. Doornweerd, Raymond J. Bree, and Albert de Groot, Dutch PWs (as amended, R. 7).	NG	NG	---

(p 5, FUJIMOTO et al, Case 166)

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Sp 2: In or about April 1945 at Tokyo Area POW Branch Camp No. 8, accused with others did willfully and unlawfully mistreat Warrant Officer Joseph Rearton, an American PW, by beating him into unconsciousness several times, by causing him to stand at attention for several hours while holding a bucket of water in each hand, and by otherwise abusing him.	NG	G	Yes
Sp 3: On or about 28 June 1945, at Tokyo Area POW Branch Camp No. 8, accused with others did willfully and unlawfully mistreat Jean A. Guiraud, an American PW, by beating him into unconsciousness and then over a long period of time alternately reviving and beating him into unconsciousness again and by otherwise abusing him.	NG	G	Yes
Sp 4: Between 28 September 1944 and 31 August 1945 at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat an unidentified Dutch PW by beating him while he was suffering from diarrhea and by otherwise abusing him.	NG	NG	
Sp 5: In or about December 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat L. Van Viniren, a Dutch PW, by kicking and beating him into unconsciousness and by otherwise abusing him.	NG	G, excepting the words "into unconsciousness"; of the excepted words, NG.	Yes
Sp 6: In or about February 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat numerous Dutch PWs, some of whom were then suffering from colds and pneumonia, by compelling them to repeatedly immerse their heads and limbs in snow and by otherwise abusing them.	NG	G, excepting the words "suffering from colds and pneumonia", substituting therefor the words "ill"; of the excepted words, NG; of the substituted word, G.	Yes
Sp 7: On or about 15 November 1944 at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Luther A. Farrester, an American PW, by beating and by otherwise abusing him.	NG	NG	---
Sp 8: On or about 20 April 1945 and 2 June 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Lamar A. Bryan, an American PW, by beating and by otherwise abusing him.	NG	NG	---
Sp 9: On or about 13 April 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully	NG	NG	---

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mistreat Holley L. Wilkinson, an American PW, by beating and by otherwise abusing him.			
Sp 10: In or about February 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat and abuse Holley L. Wilkinson, an American PW, by igniting bandages applied to his legs, thereby burning him.	NG	Withdrawn	---
Sp 11: On or about 13 May 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat T. F. Wilson, an American PW, by beating and otherwise abusing him.	NG	G, excepting the words "and otherwise abusing"; of the excepted words, NG	Yes
Sp 12: On or about 14 November 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat numerous Allied PWs by causing them to stand at attention for several hours in very cold weather while insufficiently clothed, by clubbing and kicking them and by then compelling other Allied PWs to beat them with their fists and by otherwise abusing them.	NG	G, excepting the words "14 November 1944" and substituting therefor the words "December 1944 to February 1945"; of the excepted words, NG, and of the substituted words, G.	No
Sp 13: On or about 15 January 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Thomas E. Buchanan, an American PW, and numerous other Allied PWs by beating them with a club and then compelling them to strike each other and by otherwise abusing them.	NG	Withdrawn	---
Sp 14: In or about March 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Pink Helvey, an American PW, by beating and by otherwise abusing him.	NG	G	Yes
Sp 15: On or about 15 May 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Roland Oliviere, a British PW, by beating and otherwise abusing him.	NG	NG	---
Sp 16: On or about 15 December 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Tan Kay Choon, a British PW, by beating and otherwise abusing him.	NG	G	Yes

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Sp 17: In or about March 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Cyril Raymond Toggon, a British PW, by beating and otherwise abusing him.	NG	NG	---
Sp 18: On or about 24 May 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Gerard Van Galen, a Dutch PW, by beating him, compelling him to climb a steep hill twice daily for several days while suffering from an injured foot and by otherwise abusing him.	NG	G	Yes
Sp 19: That on or about 8 May 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Johannes Ridder and Abram Reiring, Dutch PWs, by beating them, by depriving them of their Red Cross food supply, and by otherwise abusing them.	NG	G, excepting the words "by depriving them of their Red Cross food supply"; of the excepted words, NG.	Yes
Sp 20: That on or about 14 May 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat William Pieter Von Wingen, a Dutch PW, by beating and by otherwise abusing him.	NG	G, excepting the words "and by otherwise abusing"; of the excepted words, NG.	Yes
Sp 21: On or about 15 March 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Norman T. Rees, an American PW, by beating and otherwise abusing him.	NG	NG	---
Sp 22: Between 28 September 1944 and 31 August 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat William L. Phillips, an American PW, by beating and by otherwise abusing him.	NG	G	Yes
Sp 23: Between 28 September 1944 and 31 August 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully mistreat, torture, beat and otherwise abuse numerous American and Allied PWs.	NG	G, excepting the word "torture"; of the excepted word, NG.	Yes
MATSUO			
Ch: Accused, at the times and places set forth in the specifications and during a time of war between the United States and Japan, did violate the Laws and Customs of War.	NG	G	Yes

(p 8, FUJIMOTO et al, Case #166)

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Sp 1: From about 3 October 1944 to 7 June 1945, at Tokyo Area POW Branch Camp No. 8, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp by compelling and permitting Allied PWs to perform excessive and arduous labor, in many cases when they were ill, diseased, and physically unfit to perform such labor and by otherwise mistreating and abusing them, thereby causing the deaths of Thomas J. Hagemaar, Hugo Edwards van Muyen, Theodore A. Doornweerd, Raymond J. Bree, and Agbert de Groot, Dutch PWs (as amended, R. 7).	NG	NG	---
Sp 2: From 3 October 1944 to 7 June 1945, at Tokyo Area POW Branch Camp No. 8, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp by permitting filthy and unhealthful conditions to exist in or about said camp.	NG	NG	---
Sp 3: From about 3 October 1944 to 7 June 1945, at Tokyo Area POW Branch Camp No. 8, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp by withholding and failing to provide Allied PWs with proper and adequate food, clothing, quarters, heat, medicine and other facilities.	NG	NG	---
Sp 4: From about 3 October 1944 to 7 June 1945, at Tokyo Area POW Branch Camp No. 8, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp by withholding and diverting to his own use Red Cross and other supplies intended for the use and benefit of Allied PWs.	NG	NG	---
Sp 5: From about 3 October 1944 to 7 June 1945, at Tokyo Area POW Branch Camp No. 8, accused did unlawfully disregard and fail to discharge his duty as Commander of said camp by threatening to impose severe punishment upon any Allied PWs who might complain to officials concerning offenses committed against said prisoners.	NG	G	No
Sp 6: From 3 October 1944 to 7 June 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat, torture, abuse and beat numerous Allied PWs.	NG	NG	---

(p 2, FUJIMOTO, Case #166)

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Sp 7: From 3 October 1944 to 7 June 1945, at Tokyo Area POW Branch Camp No. 8, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp to restrain members of his command and persons under his supervision and control, by permitting them to commit the following cruel and brutal acts, atrocities, and other offenses against certain Allied PWs:	NG	G	Yes
a. In or about April 1945, the unlawful mistreatment by Saburo Kozawa, Masatomo Kikuchi, Minoru Fujimoto, and others, of Warrant Officer Joseph Reardon, an American PW, by beating him into unconsciousness, by forcing him to stand at attention for several hours while holding a bucket of water in each hand, and by otherwise abusing him.	NG	G	Yes
b. In or about December 1944, the unlawful mistreatment by Saburo Kozawa of L. Van Viniren, a Dutch PW, by kicking and beating him into unconsciousness and by otherwise abusing him.	NG	G, excepting the words "into unconsciousness"; of the excepted words, NG.	Yes
c. In or about February 1945, the unlawful mistreatment by Saburo Kozawa of numerous Dutch PWs, some of whom were suffering from colds and pneumonia, by compelling them to repeatedly immerse their heads and limbs in snow and by otherwise abusing them.	NG	G, excepting the words "suffering from colds and pneumonia"; of the excepted words, NG. And inserting the words "then ill" after the word "were"; of the added words, G.	Yes
d. On or about 15 November 1944, the unlawful mistreatment by Saburo Kozawa of Luther A. Farrester, an American PW, by beating and by otherwise abusing him.	NG	NG	---
e. On or about 20 April 1945, and on or about 2 June 1945, the unlawful mistreatment by Saburo Kozawa of Lamar A. Bryan, an American PW, by beating and by otherwise abusing him.	NG	NG	---
f. On or about 15 April 1945, the unlawful mistreatment by Saburo Kazawa of Holley L. Wilkinson, an American PW, by beating and otherwise abusing him.	NG	NG	---
g. In or about February 1945, the unlawful mistreatment by Saburo Kozawa of Holley L. Wilkinson, an American PW, by burning him.	NG	Withdrawn	---

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h. On or about 13 May 1945, the unlawful mistreatment by Saburo Kozawa of T. F. Wilson, an American PW, by beating and otherwise abusing him.	NG	G, excepting the words "and otherwise abusing"; of the excepted words, NG.	Yes
i. On or about 14 November 1944, the unlawful mistreatment by Saburo Kozawa of numerous Allied PWs by causing them to stand at attention for several hours in very cold weather while insufficiently clothed, by clubbing and kicking them, then compelling other Allied PWs to beat them with fists, and by otherwise abusing them.	NG	G, excepting the words "14 November 1944"; of the excepted words, NG. And substituting therefor the words "December 1944 to February 1945"; of the substituted words, G.	No
j. On or about 15 January 1945, the unlawful mistreatment by Saburo Kozawa of Thomas E. Buchanan, an American PW, and numerous other Allied PWs, by beating them with a club about their heads, then compelling them to hit each other, and by otherwise abusing them.	NG	Withdrawn	---
k. On or about March 1945, the unlawful mistreatment by Saburo Kozawa of Pink Helvey, an American PW, by beating and otherwise abusing him.	NG	G	Yes
l. On or about 15 May 1945, the unlawful mistreatment by Saburo Kozawa of Roland Oliviera, a British PW, by beating and otherwise abusing him.	NG	NG	---
m. On or about 15 December 1944, the unlawful mistreatment by Saburo Kozawa of Tan May Choon, a British PW, by beating and otherwise abusing him.	NG	G	Yes
n. On or about March 1945, the unlawful mistreatment by Saburo Kozawa of Cyril Raymont Togjon, a British PW, by beating and otherwise abusing him.	NG	NG	---
o. On or about 24 May 1945, the unlawful mistreatment by Saburo Kozawa of Gerard Van Galen, a Dutch PW, by beating him, compelling him to climb a steep hill twice daily for several days while suffering from an injured foot, and by otherwise abusing him.	NG	G	Yes
p. On or about 8 May 1945, the unlawful mistreatment by Saburo Kozawa of Johannes Ridder and Abram Reiring, Dutch PWs, by beating them, by depriving them of their Red Cross food supply, and by otherwise abusing them.	NG	G, excepting the words "by depriving them of their Red Cross food supply"; of the excepted words, NG.	Yes

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q. On or about 14 May 1945, the unlawful mistreatment by Saburo Kozawa of William Pieter Van Wingen, a Dutch PW, by beating and otherwise abusing him.	NG	G, excepting the words "and otherwise abusing"; of the excepted words, NG.	Yes
r. On or about 15 March 1945, the unlawful mistreatment by Saburo Kozawa of Norman T. Rees, an American PW, by beating and otherwise abusing him.	NG	NG	---
s. In or about May 1945, the unlawful mistreatment by several unidentified guards of Captain Earl Short, Captain Charles Underwood, and Captain William Nealson, American PWs, by severely beating them with fists, and by otherwise abusing them.	NG	G	Yes
t. In or about April 1945, the unlawful mistreatment by Masatomo Kikuchi of Major James H. Bahrenburg, an American PW, by beating and otherwise abusing him.	NG	G	Yes, in part
u. On or about 12 April 1945, the unlawful mistreatment by Masatomo Kikuchi of Charles W. Coombs, an American PW, by beating and otherwise abusing him.	NG	NG	---
v. On or about 15 December 1944 and 20 March 1945, the unlawful mistreatment by Masatomo Kikuchi of Vaandrug Gervardinck, a Dutch PW, by beating him and otherwise abusing him.	NG	G, excepting the words "and otherwise abusing him"; of the excepted words, NG.	Yes, in part
w. On or about 12 February 1945, the unlawful mistreatment by Toshio Mizuno of Major J. H. Bahrenburg, Captain Charles C. Underwood, and Lieutenant J. I. Renka, Jr., American PWs, by beating and otherwise abusing them.	NG	G, excepting the words "Captain Charles C. Underwood"; of the excepted words, NG.	Yes
x. On or about 12 February 1945, the unlawful mistreatment by Toshio Mizuno of Fred A. Douglas, R. M. Stork, and John B. Dick, American PWs, W. F. H. Von der Bruggen, A. J. Brosinga, K. L. Gabriel, N. Floor, and H. W. Dornseiffer, Dutch PWs, M. Veeramuther and Kee Fah Ton, British PWs, all of whom were then sick, by ignoring the order of the Japanese doctor that they by given light camp duty and, instead, forcing them to do heavier labor involving the climbing of a steep hill, thereby aggravating the illnesses from which they were suffering, and by otherwise abusing them.	NG	G, excepting the words "and by otherwise abusing them"; of the excepted words, NG.	No

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y. On or about 7 February 1945, the unlawful mistreatment by Toshio Mizuno of Holley L. Wilkinson, an American PW, and William D. Gruiter, Pieter Van Winger and G. Von Galen, Dutch PWs, by igniting balls of cotton saturated with alcohol upon their flesh, as a result of which they suffered severe burns.	NG	NG	---
z. Between 1 December 1944 and 28 February 1945, the unlawful mistreatment by Toshio Mizuno of numerous Allied PWs by compelling them to stand in the snow in severely cold weather for several hours while inadequately clothed and forcing them to beat each other with their fists, and by otherwise abusing them.	NG	G, excepting the words "the snow in severely" and "with their fists, and by otherwise abusing them"; of the excepted words, NG. And adding "fourteen of" between the words "forcing them"; of the added words, G.	Yes, in part
aa. On or about 10 February 1945, the unlawful mistreatment by Minoru Fujimoto of William C. Gonyo, an American PW, by striking him in the face with a rifle butt, and by otherwise abusing him.	NG	NG	
bb. In or about November 1944, the unlawful mistreatment by Minoru Fujimoto of Donald H. Kedzie, an American PW, by hitting him with a club, and by otherwise abusing him.	NG	G	Yes
cc. Between 3 October 1944 and 7 June 1945, the unlawful misappropriation of Red Cross and other supplies intended for the use and benefit of Allied PWs.	NG	NG	---
dd. Between 3 October and 7 June 1945, the unlawful mistreatment, torture, abuse and beatings of numerous Allied PWs.	NG	G, excepting the word "torture"; of the excepted word, NG, and adding "other than in sub-specifications above"; of the added words, G.	Yes

MIZUNO

Ch: Accused, at the times and places set forth in the specifications and during a time of war between the United States and Japan, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: Between about 1 June 1944 and 30 June 1945 at Tokyo Area POW Branch Camp No. 8, accused with others did willfully and unlawfully mistreat and torture Allied PWs by compelling them to perform excessive and arduous labor, in many cases when they were ill, diseased, and physically unfit to perform such labor,	NG	NG	---

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and by otherwise mistreating and abusing them, thereby causing the deaths of Thomas J. Hagemaar, Hugo Edwards Van Muyen, Theodor A. Doornweerd, Raymond J. Bree, and Albert de Groot, Dutch PWs (as amended, R. 7).			
Sp 2: On or about 4 July 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Thomas E. Buchanan, an American PW who had then sustained a sprained ankle, by maliciously twisting said ankle several times, thereby causing him great pain and injury, and by otherwise abusing him.	NG	G, excepting the words "and injury, and by otherwise abusing him"; of the excepted words, NG.	Yes
Sp 3: On or about 9 July 1944, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Estil J. Cohorn, an American PW who had then sustained a broken toe, by maliciously kicking said toe, thereby causing him great pain and injury, and by otherwise abusing him.	NG	G, excepting the words "and injury, and by otherwise abusing him"; of the excepted words, NG.	Yes
Sp 4: On or about 12 February 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Major J. H. Bahrenburg, Captain Charles C. Underwood, and Lieutenant J. L. Renka, Jr., American PWs, by hitting them in the face several times with a hard object and by otherwise abusing them.	NG	G, excepting the words "Captain Charles C. Underwood"; of the excepted words, NG.	Yes
Sp 5: That on or about 12 February 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat Fred A. Douglas, R. M. Stork, and John B. Dick, American PWs, W. F. H. Von der Bruggen, A. J. Brosinga, K. L. Gabriel, N. Floor, and H. W. Dornseiffer, Dutch PWs, M. Veeramuther and Koe Fah Ton, British PWs, all of whom were then sick, by ignoring the order of the Japanese doctor that they be given light camp duty and, instead, forcing them to do heavier labor for which they were physically unfit, involving the climbing of a steep hill, thereby aggravating the illnesses from which they were suffering, and by otherwise abusing them.	NG	G, excepting the words "and by otherwise abusing them"; of the excepted words, NG.	No
Sp 6: On or about February 7, 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat and abuse Holley L. Wilkinson, an American PW, and William De Gruiter, Pieter Von Winger, and G. Von Galen, Dutch PWs, by igniting cotton saturated with alcohol placed upon their flesh, as a result of which they suffered severe burns.	NG	NG	---

(p 14, FUJIMOTO et al, Case #166)

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Sp 7: Between December 1944 and February 1945 at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully impose collective punishment upon the entire camp of Allied PWs, for alleged individual offenses by compelling them to stand in the snow in severely cold weather for several hours while inadequately clothed, during which said accused forced them to beat each other.	NG	G, excepting the words "the snow in severely"; of the excepted words, NG. And adding the words "14 of" between the words " forced them"; of the added words G.	Yes, in part
Sp 8: Between about 1 June 1944 and 3 October 1944 at Tokyo Area POW Branch Camp No. 8, accused did willfully and unlawfully mistreat and abuse numerous Allied PWs by threatening to impose severe punishment upon any of said Prisoners who might complain to officials concerning any offenses committed against them.	NG	G	No
Sp 9: Between about 1 June 1944 and 30 June 1945, at Tokyo Area POW Branch Camp No. 8, accused did willfully mistreat, torture, beat and otherwise abuse numerous American and Allied PWs.	NG	G, excepting the word "torture"; of the excepted word, NG. And adding the words "other than mentioned in Specifications 1 to 8 above"; of the added words, G.	Yes
NEMOTO			
Ch: Accused, at the times and places set forth in the specifications and during a time of war between the United States of America and Japan did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: From about 11 April 1944 to 3 October 1944, at Tokyo Area POW Branch Camp No. 8, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp by compelling and permitting Allied PWs to perform excessively arduous and dangerous labor, in many cases when said prisoners were ill, diseased and physically unfit to perform such labor.	NG	NG	---
Sp 2: From abour 11 April 1944 to 3 October 1944, at Tokyo Area POW Branch Camp No. 8, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp by withholding and failing to provide Allied PWs with proper and adequate food, medicine and clothing.	NG	NG	---
Sp 3: In or about April 1944, at Tokyo Area POW Branch Camp No. 8, accused did unlawfully disregard and fail to discharge his duty as	NG	NG	---

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Commander of said Camp by refusing to recognize the status of Allied PWs in his camp as such, and by attempting to terrorize them in an orientation speech in which he implied that they would never be allowed to leave Japan.			
Sp 4: From about 11 April 1944 to 3 October 1944 at Tokyo Area POW Branch Camp No. 8, accused did unlawfully disregard and fail to discharge his duty as Commander of said Camp to restrain members of his command and persons under his supervision and control, by permitting them to commit the following cruel and brutal acts, atrocities, and other offenses against certain Allied PWs:	NG		
a. On or about 4 July 1944, the unlawful mistreatment by Toshio Mizuno of Thomas E. Buchanan, an American PW who had sustained a sprained ankle, by maliciously twisting said ankle several times, thereby causing him great pain and injury, and by otherwise abusing him.	NG	G, excepting the words "and injury, and by otherwise abusing him", of the excepted words, NG.	Yes
b. On or about 9 July 1944, the unlawful mistreatment by Toshio Mizuno of Estil J. Cohorn, an American PW, who had sustained a broken toe, by maliciously kicking said toe, thereby causing him great pain and injury, and by otherwise abusing him.	NG	G, excepting the words "and injury and by otherwise abusing him"; of the excepted words, NG.	Yes
c. Between about 1 June 1944 and 3 October 1944, the unlawful mistreatment by Toshio Mizuno of numerous Allied PWs, by threatening to impose severe punishment upon anyone who might complain to officials from Tokyo concerning any offenses committed against said Prisoners.	NG	Withdrawn	---
d. Between 11 April 1944 and 3 October 1944, the unlawful mistreatment by Masatomo Kikuchi of numerous American and Allied PWs by compelling them to practice saluting and other forms of military exercises for long periods of time when they were tired and exhausted and on their rest days.	NG	G	No
e. On or about June 1944, the unlawful mistreatment by Minoru Fujimoto of William W. Hies, an American PW, by beating and otherwise abusing him.	NG	NG	---

(p 16, FUJIMOTO et al, Case 166)

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f. On or about 23 June 1944, the unlawful mistreatment by Minoru Fujimoto of Ralph Sedillo, an American PW, by beating him with his fists and the buckle end of a belt, and by otherwise abusing him.	NG	G	Yes
g. On or about 23 June 1944, the unlawful mistreatment by Minoru Fujimoto of Warrant Officer Perry, an American PW, and other Allied PWs, by thrusting a lighted carbide lamp in their faces, thereby burning them, and by otherwise abusing them.	NG	NG	---
h. On or about July 1944, the unlawful mistreatment by Minoru Fujimoto of Ralph F. Garofalo, an American PW, by beating and otherwise abusing him.	NG	G, excepting the words "and otherwise abusing"; of the excepted words, NG.	
i. On or about June 1944, the unlawful mistreatment by Minoru Fujimoto of Mack C. Walker, an American PW, by hitting him with a club and then forcing him to carry a heavy log up a mountain and by otherwise abusing him.	NG	NG	
j. On or about 17 June 1944, the unlawful mistreatment by Minoru Fujimoto of George Kalil, Jr., an American PW, by beating and otherwise abusing him.	NG	NG	---
k. Between 11 April 1944 and 3 October 1944, the unlawful misappropriation by divers Japanese guards of Red Cross supplies intended for the Allied PWs.	NG	NG	---
l. Between 11 April 1944 and 3 October 1944, the unlawful mistreatment, torture, abuse and beatings of numerous Allied PWs.	NG	G, excepting the words "torture" and "numerous"; of the excepted words, NG. And adding "other than mentioned in sub-specifications above"; of the added words, G.	Yes

3. Summary of the Evidence:

a. For the Prosecution:

FUJIMOTO

Identification: The accused was identified as a civilian guard employed by the Japan Mining Company at the Hitachi Mine and was assigned to the Tokyo Area POW Dispatch Camp from April 1944 to the end of the war. His nicknames were "Liver Lip" and "Nigger Lips" (R. 75, 76).

Specification 1, Reardon: During the month of March 1945, Warrant Officer Reardon was searched upon returning to camp from work and on his body were found several hot cakes. He was beaten

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by Japanese personnel and required to stand in front of the guardhouse for a period of about 5 hours with buckets of water in both hands or hold one bucket of water on his head. At intervals he was beaten with sticks and fists and when he was rendered unconscious he was revived with cold water and the process was repeated. Kozawa was the instigator, helped to carry it along, urged other Japanese to participate in the affair, and struck many of the blows himself. Fujimoto struck him many times with his fists, kicked him about the groin and legs, made him stand for periods and resumed the beatings. Kikuchi struck him at least a dozen times with his fists. Reardon was not disabled although he suffered bruises and lacerations. He was one of the troublemakers and had been caught and suspected of stealing both from the Japanese and from fellow PWs (Ex. 1, 7, 8, 11, 30, 31, 32, 33; R. 83, 97, 118, 209-216, 219, 221, 232, 247, 248, 264).

Specification 2, Guiraud: Acting in self defense, Guiraud struck a Korean workman at the work site in July 1945. During a period of questioning of an hour and a half, Kozama hit him several times with his fists. Guiraud was brought back to camp and was forced to stand at attention from 3 PM to 6 PM. During this period he was struck with fists, rifle butts and boards and kicked, when he fell down, by all the members of the Japanese guard and several civilians and office employes. Several times he became unconscious and he was revived by throwing cold water on him and beaten again. Efforts of the American "O.D." to make the Japanese stop were to no avail. Kikuchi kicked him in the groin and beat him repeatedly with his fists and club about the face and body. Fujimoto, during this period and at intervals, took his turn in beating the victim with sticks, with his fists, and kicked him in the shins. Kozawa was the instigator and urged the other guards to beat the prisoner as well as taking a very active part himself. He received severe cuts inside his mouth, his teeth were loosened, he had bruises on his head, chest and ribs, his testicles were swollen, and he had many cuts elsewhere. His injuries did not result in any permanent disability. Along with Reardon, Guiraud was one of the troublemakers and had been caught and suspected of stealing both from the Japanese and Americans (Ex. 2, 3, 4, 5, p 2, 6, 9, 10, 11, 17, 18, 34, 35, 36, 37, 38, 39, 40, 41, 42; R. 84, 97, 118, 215, 216, 219, 221, 232, 248-252, 264, 265).

Specification 3, Gonyo: Not Guilty.

Specification 4, Nies: Not Guilty.

Specification 5, Sedillo: On or about 23 June 1944 Fujimoto caught Sedillo joking with a guard at the mine and slapped him with his half-closed fist, struck him with a scabbard and the buckle end of the belt, and kicked him when he was knocked down. This punishment lasted for 20 minutes and caused Sedillo's face and body to be bruised and swollen (Ex. 5, p 12; 16, 17; R. 98-100, 222, 244, 245).

Specification 6, Perry: Not Guilty.

Specification 7, Kedzie: In June or July 1945, Kedzie, after coming out of a shack where dynamite was kept, was caught by Fujimoto slipping a cigarette butt in his pocket. There was a Japanese regulation against smoking cigarettes in this shack. Fujimoto punished him by slapping him in the face, punching him with his closed fist and hitting him with a heavy club, and as a result blood broke through the skin of his face, the inside of his mouth was cut and his head was badly swollen (Ex. 5, p 11; 18; R. 100, 101, 223, 224).

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Specification 8, Kedzie: In November 1944 Kedzie was beaten by Fujimoto with his fists and a club for about a half an hour for not counting off fast enough at roll call (Ex. 18).

Specification 9, Garofalo: Garofalo, in his affidavit, testified he was beaten by Fujimoto during the month of July 1944 about the face for 10 or 15 minutes causing his face to be bruised and swollen because he, as section leader, and other PWs in his section, were smoking in the waiting room after completing their quota of work. Major Short, who did not witness the incident, testified that in addition to the punishment as stated by Garofalo, the victim was also kicked in the groin and shins (Ex. 19; R. 102, 104, 224, 225).

Specification 10, Walker: Not Guilty.

Specification 11, Kalil: Not Guilty.

Specification 12, Omnibus: Fujimoto was one of the worst guards and often hit PWs, two of them being Shuping and Soon, for no reason, except to impress them with his authority (Ex. 12, 13, 14, 22, 25, 26). Prior to 28 May 1944, firewood was obtained for the camp by going up a steep hill and Fujimoto, if the men in the detail were too slow, would beat them with his club, rifle butt or fist (Ex. 15). On 23 June 1944 Fujimoto slapped some men for eating their lunch before going to work and not taking it with them (Ex. 17). Fujimoto on 11 August 1944 beat Cohorn and other PWs (Ex. 24). Fujimoto, for failing to goosestep, for smoking or for misunderstanding commands, kicked and slapped PWs (Ex. 23). Every other day Fujimoto slapped PWs (R. 105).

KIKUCHI:

Identification: The accused was identified as a civilian guard attached to the "Imperial Japanese Army", and was assigned to the Tokyo Area POW Camp Dispatch Camp No. 12, from the time of the arrival of the witness, Major Short, until the end of the war. His nickname was "Clinkeye" (R. 75, 76).

Specification 1, Reardon: The facts under this specification were heretofore set out under Specification 1, Fujimoto.

Specification 2, Guiraud: The facts under this specification were heretofore set out under Specification 2, Fujimoto.

Specification 3, Major Bahrenburg: In the spring of 1945, for failure to salute when he was passing the office, Major Bahrenburg was summoned back to the office and slapped three times by Kikuchi with his open hand (Ex. 5, p 10). Major Short testified he was slapped from 10 to 15 times (R. 84, 85, 216-218, 271).

Specification 4, Combs: Not Guilty.

Specification 5, Gerverdinck: On or about 15 December 1944, 20 March 1945, and 18 July 1945, Gerverdinck, the senior Dutch PW, was slapped by Kikuchi for failure to salute. On one of the occasions, in the winter of 1944-1945, he was slapped very hard 15 or 20 times (Ex. 5, p 10; R. 86).

Specification 6: During the whole period the PWs were in the camp (April 1944 to the end of the war) and in all kinds of weather, Kikuchi on rest days and after the PWs returned from work would drill a detail of men from 15 to 30 minutes in the Japanese commands on facings, goosestep, saluting and other drills connected with the "school of the soldier". These drills were not done for punishment (Ex. 5, p 9; R. 87-92, 219).

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Specification 7, Omnibus: Kikuchi beat a sick Dutch PW whom he thought was unwilling to work and when Lt. Gerverdinck interfered he was beaten severely (Ex. 4). On 12 July 1945 Clink Eye saw a POW steal a turnip from the galley and forced him to stand at attention at the guardhouse from 10 AM to 3 PM (Ex. 17). Kikuchi usually slapped PWs but at times kicked them on the shins (R. 94, 218). He was more of a heckler than anything else and at times the PWs poked fun at him (Ex. 5, p 9; R. 217). In the opinion of Major Short, Kikuchi was a person easily influenced and below the average in intelligence. His actions were childish (R. 212, 216, 217).

KOZAWA:

Identification: The accused was identified as a supply sergeant and mess supervisor at the Tokyo Area POW Dispatch Camp No. 12 from July or August 1944 to the end of the war. His nickname was "Ironhead".

Specification 1: Not Guilty.

Specification 2, Reardon: The facts under this specification were heretofore set out under Specification 1, Fujimoto.

Specification 3, Guiraud: The facts under this specification were heretofore set out under Specification 2, Fujimoto.

Specification 4: Not Guilty.

Specification 5, Van Viniren: In December 1944, Van Viniren was caught with some stolen rotten potatoes when he was searched on his return to the camp. Kozawa and other guards beat and kicked him and forced him to stand in the compound area for a long period of time without food and water. Van Viniren was a cleptomaniac and stole from both the Japanese and the American PWs (Ex. 44; R. 118, 119, 232, 233).

Specification 6: During the winter of December 1944, for not cleaning off the snow as ordered, about 60 Dutch PWs, many who were ill, were compelled by Kozawa to stick their hands, forearms, faces and necks in the snow (Ex. 5, p 2; R. 118, 233).

Specifications 7, 8, 9 and 10: Not Guilty.

Specification 11, Wilson: In May 1945, Wilson was slapped hard for about ten minutes (from 10 to 15 slaps) by Kozawa for failure to carry out instructions which he did not understand (Ex. 5, p 5; R. 123, 235-237).

Specification 12: In the late fall of 1944 or early winter a large quantity of sweet potatoes was being dried on the assembly line and a quantity of them was missing. A search of the barracks by Corporal Mizuno resulted in a half a bushel being found cached away in different places. A roll call was held, and after the POW were slapped and kicked for about 3 hours by various Japanese personnel, 14 men admitted that they had stolen the potatoes. They were lined up, facing each other, and were forced to slap each other as hard as possible. PW barracks leaders were also required to strike the 14 men. When it appeared that the PWs were shirking in striking the PWs, Japanese guards would step in and deliver a few hard blows themselves. Kozawa took part in this beating. Lt. Matsuo, the camp commander, was present during the whole time. The weather was cold but the men had on various types of uniforms and overcoats (Ex. 5, p 2, 17, 23, 27, 29, 44; R. 112, 113, 124, 125).

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Specification 13, Buchanan: Withdrawn.

Specification 14, Helvey: A Japanese guard, in March 1945, caught Helvey smoking in bed and beat him for punishment. The next morning at roll call, Kozawa, who had learned of the incident, punished him again, striking him with his open and closed hand, hitting him over the head with a bamboo stick and kicking him in the shins (Ex. 5, p 4; R. 125, 237).

Specification 15, Oliviere: Not Guilty.

Specification 16, Choon: In December 1944, Choon was without a mine lamp when falling out for work and (Captain Underwood, Ex. 5, p 6) was slapped many times with open hand by Kozawa, or (Major and then Captain Short, R. 125, 126, 218, 237) beaten by him with open and closed hand, and kicked in the groin and on the shin (See also Ex. 26).

Specification 17, Togjon: Not Guilty.

Specification 18, Van Galen: On or about May 24, 1945, Van Galen was on light duty status in camp because of an injured foot and had charge of camp animals, including rabbits. Kozawa slapped Van Galen because he blamed him for the death of a rabbit. Thereafter Van Galen was forced to work outside, which necessitated climbing steep steps of approximately 300 meters twice a day (Ex. 4, 5, p 6; R. 128, 238).

Specification 19, Ridder and Reiring: In May 1945, Ridder was instructed to take empty rice sacks from the kitchen to the storeroom. On his way he stopped at his barracks. This was reported to Kozawa, who accused him of stealing some grain. Kozawa beat him about the face with his closed and open hand and kicked him in the knee and groin. Reiring, who was in the room with Ridder, attempted to explain his actions and as a result was punished nearly as severely as Ridder. Reiring was deprived of his share in the next Red Cross issue because he had not informed the Japanese that Ridder had the grain (Ex. 5, p 6; R. 127, 239).

Specification 20, Van Wingen: On or about 14 May 1945 Van Wingen appeared in sick bay for treatment without his underwear. In answer to a question Van Wingen told Kozawa that he had turned in his underwear to him when he went to Tokyo Hospital as a patient. Kozawa said that this was a lie and struck him with his open and closed hand for about ten minutes and also kicked him in the legs (Ex. 5, p 7; R. 129, 239).

Specification 21, Rees: Not Guilty.

Specification 22, Phillips: In the winter of 1944-45, Phillips' clothes became very dirty because he was working with dirty, greasy equipment. It was impossible to keep clothing clean because of the lack of soap. For having his clothing dirty, Kozawa beat him about the face and body, burst his lips, and kicked him in the shins. This punishment lasted for 5 or 10 minutes (R. 129, 130, 239).

Specification 23, Omnibus: Kozawa was sadistic, mentally unbalanced and seemed to love to beat PWs, and gave them the most severe beatings (Ex. 31, 34). Kozawa, by himself or with others, was always beating PWs (Ex. 5, 6, 23, 26, 48). On 29 November 1944 Ironhead slapped many PWs because they were not taking lunch with them to work (Ex. 17). Kozawa, for not counting correctly, beat Dutch PWs with his fists to their knees, made PWs clean snow off the

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parade ground with their bare feet, poured cold water on PWs at formation, slapped PWs, and hit others with his sword (Ex. 47). Kozawa slapped Captain Underwood and two other officers for protesting in sending sick PWs to work (Ex. 49). Kozawa was the scourge of the camp and looked for things to beat PWs. He instigated more beatings than all the other Japanese personnel combined. He slapped sick PWs in the barracks (R. 132, 133).

MIZUNO:

Identification: The accused was identified as a corporal in the Imperial Japanese Army, and was assigned to the Tokyo Area POW Dispatch Camp from about May 1944 to June 1945. He had no nickname but was sometimes called "the gocho" (R. 75, 76).

Specification 1: Not Guilty.

Specification 2, Buchanan: On or about the 4th of July 1944, Mizuno several times twisted Buchanan's badly sprained ankle from side to side (Ex. 27; R. 105-107, 225, 226).

Specification 3, Cohorn: On or about the 9th of July 1944, Mizuno became angry at Cohorn for reporting to sick call with several broken toes which had been injured in the mine. The accused slapped him, knocked him down and stepped on or kicked the broken toes (Ex. 24, 27; R. 107, 108, 227).

Specification 4, Bahrenburg and Renka: On or about 12 February 1945, Major Bahrenburg and Lt. Renka protested to Mizuno against more PWs going to work or were reprimanded by him for sending too few PWs to work. Mizuno struck these two officers several times with a clip board made of wood (Ex. 27; R. 108-110, 272).

Specification 5: On or about 12 February 1945, Mizuno forced the Japanese doctor to change the duty of the 10 PWs named in the specification from light camp duty to light mine duty. This forced these men to climb and descend a very steep hill, 400 or 500 feet high, when they were not in good physical condition to stand the strain (Ex. 27).

Specification 6: Not Guilty.

Specification 7: The facts under this specification were heretofore set out under Specification 12, Kozawa.

Specification 8: In the winter of 1944-45, during an inspection of Col. Sakabo, the main camp commander of the Tokyo area, Major (then Captain) Short complained to him that the PWs were in dire need of more food and clothing. Mizuno, with Lt. Matsuo present, criticized Short and said that anybody who did anything of that nature in the future would be severely punished, as it might reflect on the camp (R. 113-115, 151, 152, 231).

Specification 9, Omnibus: De Gruiter was beaten by Mizuno when he gave him the beri-beri cure (Ex. 4). Accused beat Capt. Underwood with a clip board for not giving PWs garlic (Ex. 27). Ninety percent of the time and in general Mizuno was cheerful, easy to deal with, and had the best interest of the PWs at heart. Although he occasionally slapped PWs, he often, after the air raids had destroyed the big plant, would take the men out on picnics and would show them a pretty good time (R. 115, 226).

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MATSUO:

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Identification: The accused was identified as First Lieutenant in the Imperial Japanese Army, and was assigned to the Tokyo Area POW Dispatch Camp 12 from October 1944 to June 1945. His nickname was "Jelly Fish".

As to Specifications 1, 2, 3, 4: Not Guilty.

As to Specification 5: See Specification 8, Mizuno.

As to Specification 6: Not Guilty.

As to Specification 7a, Reardon: See Specification 1, Fujimoto.

As to Specification 7b, Van Viniren: See Specification 5, Kozawa.

As to Specification 7c: See Specification 6, Kozawa.

As to Specifications 7d, 7e, 7f; Not Guilty.

As to Specification 7g: Withdrawn.

As to Specification 7h, Wilson: See Specification 11, Kozawa.

As to Specification 7i: See Kozawa, Specification 12.

As to Specification 7j: Withdrawn.

As to Specification 7k, Helvey: See Specification 14, Kozawa.

As to Specification 7-l: Not Guilty.

As to Specification 7m, Choon: See Specification 16, Kozawa.

As to Specification 7n: Not Guilty.

As to Specification 7o, Van Galen: See Specification 18, Kozawa.

As to Specification 7p, Ridder and Reiring: See Specification 19, Kozawa.

As to Specification 7q, Van Wingen: See Specification 20, Kozawa.

As to Specification 7r: Not Guilty.

As To Specification 7s, Short, Underwood, and Nealson: During the month of May 1945, Captains Short, Underwood, and Nealson were summoned to the Japanese guard house for protesting and trying to stop the beating of a PW by the name of Gregory. Five unidentified guards lined the three officers abreast of each other and filed past from left to right, striking each officer with their fists on the left jaw. All three had badly swollen jaws (Ex. 5, p 13; 49; R. 154, 155).

As to Specification 7t, Bahrenburg: See Specification 3, Kikuchi.

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As to Specification 7u: Not Guilty.

As to Specification 7v, Gerverdinck: See Specification 5, Kikuchi.

As to Specification 7w, Bahrenburg and Renka: See Specification 4, Mizuno.

As to Specification 7x: See Specification 5, Mizuno.

As to Specification 7y: Not Guilty.

As to Specification 7z: See Specification 12, Kozawa.

As to Specification 7aa: Not Guilty.

As to Specification 7bb, Kedzie: See Specification 8, Fujimoto.

As to Specification 7cc: Not Guilty.

As to Specification 7dd, Omnibus: Fujimoto was one of the worst guards and often hit PWs (Ex. 12, 13, 14, 22, 25, 26). Kikuchi usually slapped PWs but at times kicked them on the shins (R. 97, 218). Kozawa instigated more beatings than all other Japanese combined (R. 132). Mizuno occasionally slapped PWs (R. 115, 226). Japanese personnel were always working over Dutch PWs (Ex. 8). On 11 November 1944, five PWs who were working on the surface and two in the mine were beaten with a rifle butt for not counting off fast enough, and on 29 November 1944, Ironhead slapped many of the PWs for not taking their lunches with them (Ex. 17). Although Matsuo never struck a PW himself and he did many kindly things such as obtaining a grinder for grain and getting stoves and lights, his subordinates were unrestrained and there were many beatings (R. 141, 152, 156, 220).

NEMOTO:

Identification: The accused was identified as a Captain in the Imperial Japanese Army, and was assigned as camp commander at the Tokyo Area POW Dispatch Camp 12 from about April 1944 to October 1944.

As to Specifications 1, 2, 3: Not Guilty.

As to Specification 4a, Buchanan: See Specification 2, Mizuno.

As to Specification 4b, Cohorn: See Specification 3, Mizuno.

As to Specification 4c: Withdrawn.

As to Specification 4d: See Specification 6, Kikuchi.

As to Specification 4e: Not Guilty.

As to Specification 4f, Sedillo: See Specification 5, Fujimoto.

As to Specification 4g: Not Guilty.

As to Specification 4h, Garofalo: See Specification 9, Fujimoto.

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As to Specifications 4i, j, k: Not Guilty.

As to Specification 4-l, Omnibus: 22 May 1944, "ACI" was drunk and started slapping POW and made them hurry in eating their lunch; Sedillo, on 25 May 1944 mashed his finger and "Marblehead" made him work with one hand; 23 June 1944, Liverlip slapped some men for eating their lunch before going to work; 3 August 1944 "Marblehead" was very cruel to the men today; he hit one of them; 28 September 1944, sugar was stolen and all POW on light duty received no dinner or cigarettes (Ex. 17). Under Nemoto the POW camp was in its worst condition (Ex. 18). Fujimoto, during the time Nemoto was camp commander, beat POW (Ex. 27). About May 1944, Marblehead beat McGuire (Ex. 32). Fujimoto on 28 May 1944, and 11 August 1944, slapped and beat POW (Ex. 15, 23). Fujimoto, Kikuchi and Kozawa beat POW (R. 82, 92, 218).

GENERAL:

Major Earl Short, who was senior POW officer at the camp, testified that he knew of no instance where death or serious injury occurred as a result of beatings (R. 241), that neither Matsuo nor Nemoto struck a POW although Matsuo witnessed some of the punishment meted out (R. 206, 207); that, with the exception of minor slapping, punishment of POW was for violation of some regulation (R. 211). Major Short further stated, after testifying as to some major beating, that he complained to the camp commander in respect to the mistreatment of POW.

Affiants, in Exhibits 26, 31, testified that they did not recall any instances where POW were confined to the hospital as a result of beatings.

REBUTTAL:

Major Earl Short was recalled by the prosecution for rebuttal. The gist of his pertinent testimony is as follows:

He testified that the camp did have a steam sterilizer; that it was not Reardon's signature that appeared on Exhibit F; that Kozawa had Ronka fix the phonograph, and the POW played it for only two or three days; that he saw Matsuo only at the beginning of the ascent of the hill and that men on the light duty detail had to be assisted up the hill (R. 540-545).

b. For the Defense:

Shigeru Hamada, Mitsuo Kimura and Isharu Shirai, former civilian doctors; Kanzo Sasaki, former pharmacist, and Sakae Nakamura and Seiji Oshima, former workers in the dispensary, testified under oath for the defense. The gist of their pertinent testimony is as follows:

Corp. Mizuno never interferred with the decisions of the doctors in respect to sending sick POW to work, and neither he nor Kozawa forced POW to work who were unfit to work (R. 301, 308, 312, 322, 327, 345, 360). Kimura did not know of or treat Buchanan for a sprained ankle or Cohorn for a broken toe nor did he nor others know of any mistreatment of POW in the dispensary (R. 310, 313, 350, 354).

Nemoto, when medicines were scarce, went to a drugstore and also to the manufacturer to obtain medicines (R. 302, 336, 337, 353). He did many things to improve the health of POW, such as improving sanitation and seeing that POW received adequate treatment (R. 303, 304, 309, 344).

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Matsuo improved the health of POW by seeing that clothes and bedding were sterilized, obtaining flour and additional food, improving bathing and sanitary conditions and providing yeast and milk for beri-beri patients (R. 350, 353, 354, 360-364).

Kotano Kakehi, a former interpreter at Tokyo Area Dispatch Camp 12, testified under oath for the defense that Capt. Nemoto, in a speech to all POW, told them that they had to obey the regulations of the camp. If they violated them they would be punished (R. 340, 341).

Asajiro Ishizaki, a former cook in the POW kitchen at Tokyo Area Dispatch Camp, testified under oath for the defense that he knew a POW named Wilson and that he had no recollection of Kozawa beating this POW (R. 337).

Eisaku Kurita and Kuzumasa Maekawa, former non-commissioned officers of the Imperial Japanese Army; Takao Kawamoto and Takao Oki, liaison men between the Japan Mining Company and the camp; Eiichi Nomura, former engineer of the Japan Mining Company; Sanju Tozuka, former employe of the Japan Mining Company assigned to Tokyo Area Dispatch Camp 12; and Hiroshi Fujii, medical officer of Tokyo Main Camp, and Tsugio Nishida, intendance officer for various camps including Tokyo Area Dispatch Camp 12, testified for the defense. The list of their pertinent testimony is as follows:

At the time the POW arrived, Nemoto told them in a speech that they would be punished for infractions of regulations (R. 366). Every month Nemoto warned the guards to protect the POW and prohibited corporal punishment (R. 367, 411, 417, 426).

Nemoto requested and obtained electric motors to grind rice and grain in order to prevent diarrhea (R. 368, 369, 411). The company was ordered by him to buy milk, and he ordered soft rice prepared for diarrhea patients (R. 368). Bread was prepared by Nemoto's orders for the POW (R. 369).

At least once a month Nemoto obtained additional food for the POW (R. 371, 410, 411, 425). He requested and obtained more transportation to obtain food, more fuel, disinfectants, shoes and clothes (R. 395-397, 414, 425). At the time the sick Dutch POW were sent to his camp he made a personal complaint (R. 384). Before working in the mines, Nemoto ordered company officials to instruct the POW as to safety measures (R. 401). He further ordered that if POW were hurt that they be taken immediately to the hospital or dispensary (R. 411); that the company move the mess hall from the top of the hill to the bottom of the hill (R. 412); and that the warehouse be lined with zinc-plated iron sheets to prevent the destruction of food by rats (R. 414). He was very interested in the hygiene and health of the POW in the camp (R. 391).

Matsuo obtained for the POW vegetables, rice, straw mats, bovine blood, fuel by ordering that cherry trees be cut down, steam sterilizer, electric heater for bath room, transportation to obtain food, disinfectant and clothes (R. 370, 378, 379, 395-397, 410, 411, 414, 415). He permitted POW to conduct and attend funeral services for POW who died (R. 377), and was interested in the health of the POW in the camp (R. 391). If POW were hurt in the factory, he ordered the company officials to take the POW immediately to the hospital or dispensary (R. 411).

The height from the camp to the entrance of the mine was 80 meters and the path was not particularly steep. It took the POW from 15 to 20 minutes to walk from the camp to the factory. The men

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did not have to climb 300 meters in the mine for failure of the elevators. At first there were two official rest days a month and later an additional one was added (R. 402-404, 407).

Kozawa slapped a POW three times in May or June 1945 for not doing his laundry (R. 417-419). Kozawa did not make POW stand on the drill field after work.

Mizuno did not send sick POW to work and in conferences with mine officials his policy was to let POW, who sustained minor injuries, rest as much as possible (R. 405). If POW were late in returning to camp after work, Mizuno ordered the company to make an investigation. He was the one responsible that the change from day to night shift was made after rest days. Instead of striking POW, he always tried to shield them (R. 413).

Fujimoto was strict. His parents, brothers and sisters were killed by American naval bombardment (R. 412). POW were always playing jokes and pranks on Kikuchi (R. 413).

The accused, Toshio Mizuno, testified under oath. The gist of his pertinent testimony is as follows:

The accused was a corporal and later a sergeant in the Imperial Japanese Army and was assigned to Tokyo Area Dispatch Camp 12 from 5 March 1944 to 10 June 1945. He was second-in-command (R. 428-430). Fujimoto, Kozawa and Kikuchi were under his supervision. Kozawa handled rations and clothing and Fujimoto and Kikuchi conducted POW to and from the camp and mine. Fujimoto acted as chief of the civilian guards (R. 430, 431). Kozawa and Kikuchi were earnest in their work, and the accused never saw either beat or mistreat POW. Neither was ever reprimanded. Kozawa bought musical instruments from the main camp for the POW and lent them his phonograph so that they could play records that they had received. Kikuchi was very cheerful and entertained POW by tricks with his hands (R. 448-451, 454, 455). Mizuno reported to Matsuo three times that Fujimoto mistreated POW and as a result he was reprimanded and warned by company officials (R. 448-449, 457).

In September 1944, the climate was damp and humid and the interior of the rooms became chilled and POW as a result were getting colds. Mizuno took this up with the company, and Nemoto, because the company would do nothing, kept the POW from working for two days. Nemoto also issued charcoal in an effort to dry the rooms (R. 432). This was substantiated by Major Short when he was recalled as a defense witness (R. 459).

Mizuno testified that he obtained vegetable seeds so that POW could have vegetables in addition to their regular allowance (R. 452); that he aided and supervised the moving of the mess hall from the top to the bottom of the hill (R. 455); that he requested and obtained permission from Nemoto to give POW in the hospital an extra 100 grams of rice gruel even though Japanese patients were getting less (R. 449); that he obtained cigarettes for POW when they were scarce (R. 450); and that he was given a statement by Reardon wishing him good luck and stating that he at all times conducted himself as a soldier (R. 450; Ex. F). He further testified that he carried out the camp commander's instructions, both Nemoto and Matsuo, in requesting and obtaining additional food, clothes, medicine, grinding machine, canteen articles, and sterilizing equipment (R. 454, 451-453). Both camp commanders instructed Japanese personnel not to mete out corporal punishment and saw that the company did not work the POW over the prescribed hours (R. 436, 459).

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When Nemoto was camp commander, he testified that Nemoto installed a new baking oven; that he purchased a flour machine, although installed during the time Matsuo was camp commander; that he requested and obtained the release by the company of three guards who were not diligent in their work (R. 435-437).

Mizuno testified as to the particular specifications of which he was guilty as follows:

As to Specifications 2 and 3: Denied the allegation of mistreatment of the POWs involved (R. 440).

As to Specification 4: Accused denied striking Major Bahrenburg or Renka with a clip board, but on the contrary accidentally struck Capt. Underwood's elbow with a cardboard clip board (R. 441, 442).

As to Specification 5: Accused denied the mistreatment as set out in the specification and further testified that he had no authority to change the classification of POW from heavy duty to light duty and further that there was no light duty outside the camp until March 1945 (R. 431, 442, 443).

As to Specification 7: Accused admitted the incident but testified that approximately 100 pounds of potatoes was missing, that he with Matsuo made an inspection and found the potatoes in the POWs' barracks. Capt. Short was ordered to make an investigation and report who were guilty, and during this period all the POW were required to stand for one hour after evening roll call. Capt. Short reported the names of 16 POW and was ordered by the accused to take disciplinary action. When Capt. Short refused, the barracks leaders were ordered by accused to take disciplinary action which consisted of striking them with the palms of their hands. Accused did not strike or mistreat any of these POW. At the roll call the POW were wearing their overcoats (R. 445-447). Neither Matsuo nor Kozawa were present at the time the POW were punished (R. 456).

As to Specification 8: The accused admitted the incident and testified he was scolded by the adjutant of the main camp for allowing a POW to make complaints to the main camp commander. These facts were transmitted to the POW officers (R. 447-448).

The accused Syokei Matsuo, testified under oath. The gist of his pertinent testimony is as follows:

The accused was a First Lieutenant in the Imperial Japanese Army and was assigned as camp commander at Tokyo Area Dispatch Camp 12 from 7 October 1944 to June 1945 (R. 461, 465). He replaced Capt. Nemoto as camp commander (R. 462). The quarters of the accused were outside the camp and it took him 25 minutes to walk to the camp. He arrived at the camp at 8:30 AM before the morning roll call and sick call and left at 4:30 PM at about the time the POW returned to the camp from the mine (R. 469, 470).

At the time the accused arrived at the camp he made a speech to all the Japanese personnel of the camp and instructed them to be fair in the treatment of POW, to guard their health, and ordered that POW were not to be punished by striking them (R. 473). He also made a speech to all the POW and told them they would receive fair treatment at his hands, that they were required to obey all regulations, and that he would do his best to obtain food and supplies (R. 473).

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The accused testified that he furnished sick POW jute sacks filled with rice straw, that he requested and obtained from the company additional food, clothes, medicine (also obtained this personally from drugstores in nearby towns), and improved facilities in the barracks (R. 465, 466, 496).

The testimony of Mizuno was corroborated in respect to his, Kozawa's, Fujimoto's, and Kikuchi's duties and activities at the camp. As to their duties, the accused did not reprimand any of them (R. 473-476).

Capt. Short made complaints to the accused five or six times about the food and clothing situation and four times about beatings of POW by camp personnel. The accused properly took care of the complaints in respect to food and clothes (R. 476, 477).

On complaints of Capt. Short, the accused admonished Kozawa twice for striking POW. One of the POW was punished for not doing his laundry and the other for emptying empty rice sacks (R. 478, 479). Another complaint was made by Capt. Short concerning a POW who was beaten by a work instructor for having a 5-yen note. Accused made a complaint to the company and this individual was later released (R. 478).

Capt. Short complained once and Mizuno twice about Fujimoto striking POW. Accused personally admonished him and requested the company to transfer him (R. 480). He had no power to punish or discharge him, and the reason why he was not transferred was that the company had five civilian guards called to the army; he know that the company had admonished him and were looking for someone to replace him (R. 493, 495).

The accused testified that he gave Mizuno instructions to investigate the stealing of potatoes and that he was responsible for any mistreatment that occurred whether he was present or not (R. 484, 485). He did not order Kikuchi to drill POW (R. 496), nor did he know of a case where the camp duty officer changed the report of camp doctors (R. 471, 502).

There were no instances where Capt. Short complained to the accused about mistreatment of POW by Mizuno and Kikuchi and he never saw any of his subordinates mistreat POW (R. 479, 480, 484). The first time that accused knew of the mistreatment of POW as specified under the subsections of Specification 7, other than mentioned herein, was when the facts to support them were presented by Major Short in his testimony (R. 485-488, 495, 496).

None of the beatings of the POW were serious enough to try Japanese personnel for, nor were the offenses of the POW of such a character that they required confinement in the guardhouse. Violations of regulations by POW were small in number in comparison to the total number of POW in the camp, although a certain number repeatedly violated regulations. Accused usually admonished violator although once, after talking with Major Short, he stopped the cigarette rations of one POW in order to correct his behavior (R. 495, 496, 498, 499).

The accused, Ryoichi Nemoto, testified under oath. The gist of his pertinent testimony is as follows:

The accused was a Captain in the Imperial Japanese Army and from April 11, 1944 to October 6, 1944 was camp commander of Tokyo Area Camps 6 and 12. The distance between the two camps was

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6 kilometers and accused went to each camp every other day. He arrived at the camp at 9 or 9:30 AM and left at 4:30 or 5 PM. The first month the accused slept every night at Camp 12 and thereafter 2 or 4 times a month (R. 503, 504, 511, 512).

When the POW arrived at the camp the accused told them that their treatment would be fair, that they were expected to obey regulations, and that he would do his best to make up shortages in food and medicine when the occasion arose (R. 517, 518). The Japanese personnel were called together and instructed to treat the POW fairly, to maintain the health of the POW, that under no circumstances was corporal punishment to be carried out, and that any violation of regulations was to be reported to him in order that he could carry out an investigation (R. 519).

Accused testified that he requested and obtained additional food and clothing, a baking oven, a machine for drying clothes, and a set of false teeth for a POW (R. 507-509). He corroborated Mizuno in respect to keeping the men in for two days when they had colds and repaired the road and made it less steep (R. 509). When the Dutch POW arrived in August 1944 he ordered American POW and Japanese personnel to help them carry the baggage to camp because they were ill and the road was steep (R. 514, 527).

He refused a request of the company to make the POW work longer hours to make up for time lost because of a breakdown in the machinery (R. 523). The company complained to the main camp, through the police, that his treatment of POW was better than given the Japanese in respect to food, medicine, etc. (R. 523-526).

Major Short became senior POW officer in August 1944 and neither he nor his predecessor, Major Christensen, made any complaints to him about mistreatment of POW. Accused requested that complaints be made through Mizuno as he had two camps under his jurisdiction. Mizuno never reported any complaints (R. 515-519, 528). Accused never had authority to punish Fujimoto but did have a right to punish Mizuno, Kikuchi, and Kozawa. All his subordinates did their work well and nothing was called to his attention that required a reprimand (R. 522).

Accused denied knowledge of any mistreatment by his subordinates and testified he first learned about it when he received his charges and specifications. He further denied giving any orders to Kikuchi to compel POW to practice saluting and other forms of military exercises at any time and that on rest days POW were able to rest and to do anything not contrary to regulations (R. 521).

The accused Minoru Fujimoto, Masatomo Kikuchi, and Saburo Kozawa elected to remain silent and did not testify.

Defense Exhibits A to H have been read and considered.

4. Opinion:

Except as hereinafter noted, the record is legally sufficient to support the findings of the Commission and each allegation of the charge for the specifications of which the accused were found guilty. Each was substantiated by ample and competent evidence. The Commission was constituted by proper authority, had jurisdiction of all of the accused and of the offenses alleged.

The accused Mizuno, Nemoto, and Matsuo were the only accused who elected to take the stand and testify under oath in their behalf. Under SCAP and Eighth Army rules of procedure the other accused elected not to testify.

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The prosecution introduced evidence by a former prisoner of war and by affidavits of other prisoners of war who had been interned in the camp and knew the facts of the matters in issue. From such the guilt of each of the accused was firmly established.

The complete record shows that each of the accused had a fair trial and that they were represented by competent counsel. A careful scrutiny of the entire record fails to reveal any error which injuriously affected the substantial rights of the accused or any failure to accord them a fair trial in every respect. There is no evidence that any of the accused were insane at the time of the commission of the alleged acts and at the time of the trial.

Kikuchi, Sp 3; Matsuo, Sp 7t: The accused Kikuchi was charged with beating and otherwise abusing Major Bahrenburg, and Matsuo was charged with the same mistreatment through command responsibility. The testimony is clear (Ex. 5, p 10; R. 84, 216-218) that the mistreatment consisted of a series of slappings. "Beatings" in specifications of alleged war criminals implies a more serious mistreatment than slappings and military commissions in many cases in their findings have recognized this distinction and substituted the word "slappings" for "beatings". The only evidence supporting the charge "otherwise abusing" is that Major Bahrenburg was berated for not saluting, just prior to the time he was slapped. Such berating would be part of the offense of "slapping" or "assault and battery", and not be covered within the phrase "otherwise abusing". It is recommended that the accused be found guilty of the specification, excepting, however, the words "beatings" and "otherwise abusing" and substituting therefore the word "slappings" and be found not guilty of the excepted words, and of the substituted words, guilty.

Kikuchi, Sp 5; Matsuo, Sp 7v: Testimony to support these specifications indicates that Gerverdinck was slapped and not beaten. Although setting out another incident involving Kikuchi (Ex.4,p2,Ex.5,p) the victim does not mention this mistreatment in his affidavit. In view of this fact it is possible that Major Short was in error in respect to the fact that the accused slapped the victim as many as fifteen or twenty times. For the reasons as heretofore set out under Kikuchi, Specification3, it is recommended that these accused be found guilty of the specifications, excepting the words "beatings" and substituting therefor the words "slapping"; of the excepted words not guilty, and of the substituted words, guilty.

Kikuchi, Sp 6; Nemoto, Sp 4d: The accused were found guilty of these specifications of compelling numerous prisoners of war to practice saluting and other forms of arduous military exercises on their rest days and at other times when they were tired and exhausted and physically unfit to do so. There is no evidence from the record that supports the allegation that the details of prisoners of war who drilled were physically unfit, but there is direct evidence that prisoners of war who were feeble were not included in the detail (R. 90). No evidence further supports that part of the specification alleging prisoners of war were "tired and exhausted", although a valid presumption arises that the prisoners of war in the detail were tired after a day's work. Attention is further directed that these specifications are only supported by the testimony of Major Short (R. 87, 219) and Capt. Underwood (Ex. 5, p9), and that none of the prisoners of war whose affidavits were admitted in evidence complained about this incident. Major Short further testified that these drills were not done for punishment (R. 219). It is believed that the drilling of a detail of men for fifteen or thirty minutes, not done to punish, in the manner set out in the testimony herein, is so universally utilized in the armies of the world to teach discipline and for exercise that it would be unjust and unreasonable to consider it a war crime.

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Kozawa, Sp 12; Mizuno, Sp 7; Matsuo, Sps 7i and 7z: These specifications relate to the punishment of prisoners of war for stealing potatoes, and all refer to the same incident. That part of the specification alleging that the prisoners of war were "insufficiently clothed" is not sustained by the evidence. Major Short, the senior prisoner of war officer, said (R. 113) that the prisoners of war had their overcoats on at this time. After a review of the entire record there is reasonable doubt as to whether Kozawa participated in this mistreatment of prisoners of war. Exhibit 23, although setting out the facts of the incident, mentions Kozawa only as generally participating in various mistreatment of prisoners of war. The affiant in Exhibit 29 appears to have confused Kozawa with Mizuno as being the instigator. The only witness to directly connect him is Major Short (R. 124, 125). The prosecution (R. 179, 180, 288) requested permission and was denied the right to withdraw Specification 7i, Matsuo, charging him with command responsibility as to Kozawa's act in this connection. In view of these facts, there is reasonable doubt of Kozawa's participation, and Major Short, testifying from memory concerning numerous beatings, may have erred as to Kozawa's part in the mistreatment of prisoners of war as alleged in this specification. It is therefore recommended that Mizuno in Specification 7 and Matsuo, Specification 7z, be found not guilty of the phrase "while insufficiently clothed" and that Kozawa, Specification 12, and Matsuo, Specification 7i, be found not guilty of the entire specification.

Mizuno, Sp 5; Matsuo, Sp 7x: The accused Mizuno was found guilty of ignoring the order of a Japanese doctor in forcing three American, five Dutch, and two English prisoners of war to do heavy labor instead of light labor as a result of which these prisoners of war were compelled to climb a steep hill and their illness was aggravated. The only evidence that supports this specification is Exhibit 27 and it does not uphold the finding that the illness of the named prisoners of war was aggravated. Stark, Exhibits 13, 47, and Dick, Exhibit 34, 40, two of the victims, do not mention this mistreatment in their affidavits. Dr. Bahrenburg, who the affiant states witnessed this mistreatment further does not mention this mistreatment in his affidavits (Ex. 66, 67). Captain Underwood, a prisoner of war at the camp gives a detailed account of all serious mistreatment in his affidavit (Ex. 5) and does not mention this mistreatment, and neither does Lt. Gerverdinck, the senior Dutch prisoner of war (Ex. 4). Major Short, who was the senior prisoner of war officer at the camp, further testified that he knew nothing of this incident. These facts together with the Commission's judicially determining that neither Mizuno nor Matsuo sent sick prisoners of war to work, by finding them not guilty of their specifications 1, raises a reasonable doubt as to whether Mizuno and Matsuo are guilty of the mistreatment alleged in these specifications. It is therefore recommended that these accused be found not guilty of Specifications 5 and 7x, respectively.

Mizuno, Sp 8; Matsuo, Sp 5: These accused were charged with threatening to impose severe punishment upon any Allied prisoners of war who might complain to officials concerning any offenses committed against them. The facts as presented do not support the findings and the specification as written. The facts are that Mizuno, with Lt. Matsuo present, told Captain Short that if he or anybody else made a complaint directly to the main camp commander again they would be severely punished (R. 113-115, 151, 152, 231). As found by the Commission, and there is no evidence to support it, the accused were found guilty of preventing the making of complaints to local camp officials as well as those of the main camp. To be guilty of a war crime under the facts as set out herein, it is necessary to prove the accused guilty of a criminal assault. Assault has been defined in 5 CJ, p 615, as "any intentional, unlawful offer of corporal

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injury to another by force unlawfully directed toward another, under such circumstances to create a well founded fear of imminent peril, coupled with the apparent present ability to effectuate the attempt if not prevented". The facts as submitted clearly do not come within the definition. It is therefore recommended that Mizuno be found not guilty of Specification 8 and Matsuo be found not guilty of Specification 5.

Mizuno, Sp 9: The omnibus specification is attacked (Defense Motion, p 11) on the ground that it does not sufficiently inform the accused with what he is charged and that the evidence is in support of the other specifications. The same motion is made by the defense in respect to other accused and evidence presented in their cases is sufficient enough to give the accused sufficient information to present a defense. In the present case and under this specification it appears that the attack by the defense has very limited merit.

Exhibit 4 sets forth that De Gruiter was beaten by Mizuno when he was given the beri-beri cure. Mizuno was found not guilty of Specification 6 of giving this victim and others the beri-beri cure, and in view of this fact it is questionable as to whether or not this exhibit is sufficient to support this omnibus specification. Exhibit 27 apparently refers to the incident set out in Specification 4, and accused was found not guilty in respect to any mistreatment of Captain Underwood by the Commission. An analysis of Exhibit 28 indicates that the mistreatment set out therein refers to Kozawa rather than to Mizuno. All other evidence to support this specification is general statements in respect to various slappings of prisoners of war. It is admitted that the omnibus specification is a type of pleading not specific in character, but is countenanced under our own court-martial procedure when the act or acts complained of extend over a considerable period of time (Appendix 4g; p 237, MCM). Major Short, the live witness in this case, testified, generally, that this accused slapped various prisoners of war, and he was not shaken in cross-examination. As the accused had the right to cross-examine a live witness in respect to the additional mistreatment alleged, it is believed that he is technically guilty of this specification and in addition has protection from any future charge of mistreatment to prisoners of war at this camp during the dates alleged as set forth in the specification. However, as the type of evidence is not specific in character, it is believed that very little weight, if any, should be given it in determining the amount of sentence under these acts.

Motions for Defense for Findings of Not Guilty: At the close of the prosecution's case the defense made its motions for findings of not guilty and the Commission overruled them and gave as its reasons that the Prosecution may request to reopen the case and produce additional evidence or that necessary evidence may be supplied by the defense in presenting its case (R. 288). Although the Commission may defer action on the motion and permit or require the prosecution to reopen its case and produce any further available evidence, Regulations of SCAP Governing the Trials of Accused War Criminals, Sec. 5e(5), it has no authority to defer action in order to determine if the defense will supply the necessary proof. To hold otherwise would force the accused to prove himself innocent and by so doing to unnecessarily increase the length of trial. It is the duty of the Commission at the close of the prosecution's case, to determine on each specification whether or not a prima facie case has been made and if a prima facie case has not been made to announce to both parties its determination. The Commission may require the prosecution to state if there is or may be any further evidence to support the specifications in question and after obtaining such information exercise its discretion as to whether or not to defer action on the motions of the defense or require and permit the prosecution to reopen

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its case. In view of the findings of not guilty by the Commission in this case no prejudicial error was committed, but if the procedure as set out herein had been followed a more expeditious hearing would have been held as required by Sec 5a(1) of the regulations of SCAP governing the trials of accused war criminals.

5. Recommendations:

There were no requests for clemency from any member of the Commission, and the letters of clemency filed for each of the accused from friends and relatives have been duly considered. Briefs have been filed on behalf of each of the accused except Nemoto, and all have been read and considered.

Fujimoto:

The Commission sentenced the accused Minoru Fujimoto to confinement at hard labor for the term of 15 years. The sentence is legal.

The sentence is not excessive for the charge and specifications of which he was found guilty. It is therefore recommended that clemency be denied and that the sentence be approved.

Accused was confined 5 February 1946, went to trial 24 February 1947, and was sentenced 16 April 1947. Due to the length of time accused has been in confinement it is recommended that 10½ months of the confinement at hard labor imposed be remitted. Sugamo Prison, Tokyo, Honshu, Japan, is the appropriate place of confinement.

Kikuchi:

The Commission sentenced the accused Masatomo Kikuchi to confinement at hard labor for the term of 12 years. The sentence is legal.

As discussed in the opinion, it is recommended that the findings of guilty of Specifications 3 and 5 be limited to slappings and the finding of guilty of Specification 6 be disapproved. Taking in consideration these recommendations, the further fact that this accused was more of a heckler than anything else, and that no serious injury was sustained by any of the POW as a result of his mistreatment it is further recommended that clemency be denied and only as much of the sentence as provides for confinement at hard labor for 8 years be approved.

Accused was confined 22 December 1945, went to trial 5 February 1947, and was sentenced 16 April 1947. Due to the length of time accused has been in confinement it is recommended that 12½ months of the confinement at hard labor imposed be remitted. Sugamo Prison, Tokyo, Honshu, Japan, is the appropriate place of confinement.

Kozawa:

The accused Saburo Kozawa was sentenced to confinement at hard labor for the term of 23 years. The sentence is legal.

As discussed in the opinion above, the finding of guilty of Specification 12 is not properly substantiated. It is recommended that the finding as to this specification be disapproved. However, because the sentence is not excessive for the charge and the remainde of the specifications of which he was found guilty, it is recommended that the sentence be approved and clemency denied.

(p 34, FUJIMOTO et al, Case #166)

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Restricted

Accused was confined 11 December 1945, went to trial 5 February 1947, and was sentenced 16 April 1947. Due to the length of time accused has been in confinement it is recommended that 13 months of the confinement at hard labor imposed be remitted. Sugamo Prison, Tokyo, Honshu, Japan, is the appropriate place of confinement.

Mizuno:

The Commission sentenced the accused Toshio Mizuno to confinement at hard labor for 17 years. The sentence is legal.

As discussed in the opinion, that part of Specification 7 finding the POW were insufficiently clothed, and Specifications 5 and 8 are not properly substantiated. It is recommended that these specifications, as recommended in the opinion, be disapproved. As to Specification 9, the accused is guilty of only a technical violation. Taking in consideration the above recommendations, that this accused was not a party to the two major mistreatments of POW, Reardon and Guiraud, that no serious injury was sustained by any POW, and his character and general treatment of POW as testified to by Major Short, it is further recommended that clemency be denied and only as much of the sentence as provides for confinement at hard labor for 10 years be approved.

Accused was confined 27 April 1946, went to trial 5 February 1947, and was sentenced 16 April 1947. Due to the length of time accused has been in confinement it is recommended that 8½ months of the confinement at hard labor imposed be remitted. Sugamo Prison, Tokyo, Honshu, Japan is the appropriate place of confinement.

Matsuo:

The Commission sentenced the accused Syokei Matsuo to confinement at hard labor for the term of 17 years.

As discussed in the opinion, part of Specifications 7t, v and z and all of Specifications 5, 7i and x are not properly substantiated. It is recommended that these specifications, as recommended in the opinion, be disapproved. In determining the adequacy of the sentence, consideration should further be given to the fact that no POW was given heavy or light confinement, as in so many of these cases, that no POW received serious injury, such as would require hospitalization, and to other mitigating factors. A careful analysis of the entire record does not indicate that this accused, as camp commander, should receive a sentence almost six times as great as his co-accused Nemoto. His greatest crime was his failure to enforce strict discipline both as to POW and his own personnel. By comparison with sentences imposed for like crimes, it is believed that the sentence is too severe. It is therefore recommended clemency be denied and that only so much of the sentence as provides for confinement at hard labor for 12 years be approved.

Accused was confined 29 January 1946, went to trial 5 February 1947, and was sentenced 16 April 1947. Due to the length of time the accused has been in confinement it is recommended that 10½ months of the confinement at hard labor imposed be remitted. Sugamo Prison, Tokyo, Honshu, Japan is the appropriate place of confinement.

Nemoto:

The Commission sentenced the accused Ryoichi Nemoto to confinement at hard labor for the term of 3 years.

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As discussed in the opinion, it is recommended that the finding of guilty of Specification 4d be disapproved. However, because the sentence is not excessive for the charge and the remainder of the specifications of which he was found guilty, it is recommended that clemency be denied and the sentence approved.

On 20 December 1945, the accused was instructed to remain at home until arrangements were made for his surrender at Sugamo Prison. As a result of following these instructions the accused was unable to engage in any gainful occupation. He was confined 24 June 1946. For his cooperation and good conduct during this period it is recommended that he be given 3 months' credit in addition to the regular credit for confinement prior to sentence.

Accused was confined 24 June 1946, went to trial 5 February 1947, and was sentenced 16 April 1947. Due to the length of time the accused has been confined, and the additional 3 months' credit recommended herein, it is recommended that 9½ months of confinement at hard labor be remitted. Sugamo Prison, Tokyo, Honshu, Japan, is the appropriate place of confinement.

6. Action:

Attached hereto are forms of action designed to carry into effect the above recommendations.

MAHLON Z. EUBANK
Reviewer
Judge Advocate Section

I concur in general. It should be remarked that the failure by a victim to mention his own mistreatment in an affidavit which he signs does not necessarily minimize or negative the occurrence unless the affidavit purports to cover all incidents of which the affiant has knowledge. It is common knowledge that affiants were often expected to delineate each abuse in a separate affidavit since they might be needed in entirely different cases.

Mizuno: As to Specification 9, it cannot be said because specific names of victims are not available that the offense is merely "technical". If the evidence of an abuse is clear, as here the failure to supply the names involved cannot destroy the seriousness of the crime. Specifications 7 and 9 involved multiple abuses justifying a sentence of 4 years for each specification. For each of the other 3 charges of which Mizuno was correctly convicted a sentence of 2 years is appropriate. Therefor approval of a total sentence of 14 years is recommended.

Kikuchi: Sentences as follows are recommended:

Specifications 3 and 5, 1 year each.
Specification 7 (multiple abuses), 4 years
Remaining approved specifications, 4 years
Total sentence, ten years.

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Matsuo: Proof of guilt of the allegations in the 16 approved specifications justifies at the least a sentence of 17 years.

Other recommendations are the same as those of the reviewer.

A pattern of camp criminality was shown to the extent that notice thereof by the two respective commanders is presumed. Each owed the prisoners the duty of protection from abuses and for failure in this duty he must respond to the law.

ALLAN R. BROWNE
Lt Colonel, JAGD
Army Judge Advocate

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